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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Argentina, Austria, Belgium*, Canada, Cyprus*, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Kuwait*, Luxembourg*, Netherlands, Norway*, Portugal*, Romania*, San Marino*, Slovakia*, Spain*, Sweden*, Switzerland*, United States of America and United Kingdom of Great Britain and Northern Ireland: draft resolution

1997/... Situation of human rights in Iraq

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Iraq is a party to the International Covenants on Human Rights and to other international human rights instruments, and to the Geneva Conventions of 12 August 1949 on the protection of victims of war,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling:

(a) previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently General Assembly resolution 51/106 of 12 December 1996 and Commission on Human Rights resolution 1996/72 of 23 April 1996;

(b) Security Council resolution 688 (1991) of 5 April 1991, in which the Council demanded an end to repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations and that the human rights of all Iraqi citizens be respected; Security Council resolution 686 (1991) of 2 March 1991 in which the Council called on Iraq to release all Kuwaitis and nationals of other States who might still be held in detention; Security Council resolution 687 (1991) of 3 April 1991 and Security Council resolution 986 (1995) of 14 April 1995, by which the Council authorized States to permit imports of Iraqi oil in order to allow Iraq to purchase humanitarian supplies;

1. Welcomes the report on the situation of human rights in Iraq submitted by the Special Rapporteur (E/CN.4/1997/57) and the observations on the general situation, including in the northern region, and the conclusions and recommendations contained therein, and notes his dismay that there has been no improvement in the situation of human rights in the country;

2. Strongly condemns

(a) The massive and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;

(b) Suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, including the death penalty;

(c) Summary and arbitrary executions, including political killings, enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law;

(d) Widespread, systematic torture in its most cruel forms, and the enactment and implementation of decrees prescribing cruel and inhuman punishment, namely mutilation, as a penalty for offences and diversion of medical care services for such mutilations;

3. Calls upon the Government of Iraq

(a) To abide by its freely undertaken obligations under international human rights treaties and international humanitarian law and respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction;

(b) To bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(c) To cooperate with United Nations human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq and allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights;

(d) To restore independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(e) To abrogate all decrees that prescribe cruel and inhuman punishment or treatment and to ensure that torture and cruel punishment and treatment no longer occur;

(f) To abrogate all laws and procedures, including Revolution Command Council Decree No. 840 of 4 November 1986, that penalize free expression and to ensure that the genuine will of the people shall be the basis of authority of the State;

(g) To cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third country nationals victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearances for that purpose, and to pay compensation to the families of those who died or disappeared in custody of the Iraqi authorities, through the mechanism established by the Security Council in resolution 692 (1991) of 20 May 1991;

(h) To cease immediately its repressive practices aimed at the Iraqi Kurds in the north, Assyrians, Shi'a, Turkomen, the population of the southern marsh areas, where drainage projects have provoked environmental destruction

and a deterioration of the situation of the civilian population, and other ethnic and religious groups;

(i) To cooperate with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country;

(j) To release immediately all Kuwaitis and nationals of other States who may still be held in detention;

(k) To ensure equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil, in implementation of Security Council resolution 986 (1995) and the memorandum of understanding with the Secretary-General of May 1996 on this issue, and cooperate with international humanitarian agencies for the provision without discrimination of relief to those in need throughout Iraq;

(l) To cooperate in the identification of mine fields existing throughout Iraq with a view to facilitating their marking and eventual clearing;

4. Decides

(a) To extend the mandate of the Special Rapporteur, as contained in resolution 1991/74 of 6 March 1991 and subsequent resolutions, for a further year, and requests the Special Rapporteur to submit an interim report on human rights in Iraq to the General Assembly at its fifty-second session and to report to the Commission at its fifty-third session;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully, and to approve the allocation of sufficient human and material resources for the sending of human rights monitors to such locations as would facilitate improved information on the situation of human rights in Iraq;

(c) To continue the examination of the situation of human rights in Iraq at its fifty-fourth session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world".